

AMENDED IN SENATE MARCH 21, 2002

SENATE BILL

No. 1344

Introduced by Senator Haynes

February 4, 2002

An act to add Section 733 to the Business and Professions Code, to amend Section 1367 of, and to add Sections 1234.5 and 1287 to, the Health and Safety Code, and to add Section 10119.1 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 1344, as amended, Haynes. Health care coverage.

Existing law regulates persons licensed as healing arts practitioners and also regulates the operation of clinics, health facilities, health care service plans, and disability insurers. Under existing law, a violation of these provisions, other than those regulating the conduct of insurers, is generally punishable as a criminal offense.

This bill would prohibit a licensed healing arts practitioner, a clinic, and a health facility from refusing to provide treatment to a person on the basis that it is futile or inappropriate *if the person or his or her legal guardian desires that treatment*. The bill would also prohibit a health care service plan and a ~~disability~~ health insurer from denying coverage for treatment on this basis.

Because the bill would specify additional requirements with respect to healing arts practitioners, clinics, health facilities, and health care service plans, the violation of which would be punishable as a criminal offense, it would create a new crime, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 733 is added to the Business and
2 Professions Code, to read:

3 733. (a) Notwithstanding the provisions of Section 4735 of
4 the Probate Code, no person licensed under this division shall
5 refuse to provide treatment to a person on the basis that it is futile
6 ~~or inappropriate~~ *if the person or his or her legal guardian desires*
7 *that treatment.*

8 (b) A person who violates this section is guilty of a
9 misdemeanor. All fines imposed pursuant to this subdivision shall
10 be deposited into the General Fund.

11 (c) Nothing in this section shall be construed to require
12 treatment that provides no medical benefit *for the specific*
13 *condition for which the person is being treated.*

14 SEC. 2. Section 1234.5 is added to the Health and Safety
15 Code, to read:

16 1234.5. (a) Notwithstanding the provisions of Section 4735
17 of the Probate Code, no clinic shall refuse to provide treatment to
18 a person on the basis that it is futile ~~or inappropriate~~ *if the person*
19 *or his or her legal guardian desires that treatment.*

20 (b) Nothing in this section shall be construed to require
21 treatment that provides no medical benefit *for the specific*
22 *condition for which the person is being treated.*

23 SEC. 3. Section 1287 is added to the Health and Safety Code,
24 to read:

25 1287. (a) Notwithstanding the provisions of Section 4735 of
26 the Probate Code, no health facility shall refuse to provide
27 treatment to a person on the basis that it is futile ~~or inappropriate~~
28 *if the person or his or her legal guardian desires that treatment.*

29 (b) Nothing in this section shall be construed to require
30 treatment that provides no medical benefit *for the specific*
31 *condition for which the person is being treated.*



1 SEC. 4. Section 1367 of the Health and Safety Code is
2 amended to read:

3 1367. Each health care service plan and, if applicable, each
4 specialized health care service plan shall meet the following
5 requirements:

6 (a) All facilities located in this state including, but not limited
7 to, clinics, hospitals, and skilled nursing facilities to be utilized by
8 the plan shall be licensed by the State Department of Health
9 Services, where licensure is required by law. Facilities not located
10 in this state shall conform to all licensing and other requirements
11 of the jurisdiction in which they are located.

12 (b) All personnel employed by or under contract to the plan
13 shall be licensed or certified by their respective board or agency,
14 where licensure or certification is required by law.

15 (c) All equipment required to be licensed or registered by law
16 shall be so licensed or registered and the operating personnel for
17 that equipment shall be licensed or certified as required by law.

18 (d) The plan shall furnish services in a manner providing
19 continuity of care and ready referral of patients to other providers
20 at times as may be appropriate consistent with good professional
21 practice.

22 (e) (1) All services shall be readily available at reasonable
23 times to all enrollees. To the extent feasible, the plan shall make
24 all services readily accessible to all enrollees.

25 (2) To the extent that telemedicine services are appropriately
26 provided through telemedicine, as defined in subdivision (a) of
27 Section 2290.5 of the Business and Professions Code, these
28 services shall be considered in determining compliance with
29 Section 1300.67.2 of Title 28 of the California Code of
30 Regulations.

31 (f) The plan shall employ and utilize allied health manpower
32 for the furnishing of services to the extent permitted by law and
33 consistent with good medical practice.

34 (g) The plan shall have the organizational and administrative
35 capacity to provide services to subscribers and enrollees. The plan
36 shall be able to demonstrate to the department that medical
37 decisions are rendered by qualified medical providers, unhindered
38 by fiscal and administrative management.

39 (h) (1) All contracts with subscribers and enrollees, including
40 group contracts, and all contracts with providers, and other

persons furnishing services, equipment, or facilities to or in connection with the plan, shall be fair, reasonable, and consistent with the objectives of this chapter. All contracts with providers shall contain provisions requiring a fast, fair, and cost-effective dispute resolution mechanism under which providers may submit disputes to the plan, and requiring the plan to inform its providers upon contracting with the plan, or upon change to these provisions, of the procedures for processing and resolving disputes, including the location and telephone number where information regarding disputes may be submitted.

(2) Each health care service plan shall ensure that a dispute resolution mechanism is accessible to noncontracting providers for the purpose of resolving billing and claims disputes.

(3) On and after January 1, 2002, each health care service plan shall annually submit a report to the department regarding its dispute resolution mechanism. The report shall include information on the number of providers who utilized the dispute resolution mechanism and a summary of the disposition of those disputes.

(i) Each health care service plan contract shall provide to subscribers and enrollees all of the basic health care services included in subdivision (b) of Section 1345, except that the director may, for good cause, by rule or order exempt a plan contract or any class of plan contracts from that requirement. The director shall by rule define the scope of each basic health care service that health care service plans shall be required to provide as a minimum for licensure under this chapter. Nothing in this chapter shall prohibit a health care service plan from charging subscribers or enrollees a copayment or a deductible for a basic health care service or from setting forth, by contract, limitations on maximum coverage of basic health care services, provided that the copayments, deductibles, or limitations are reported to, and held unobjectionable by, the director and set forth to the subscriber or enrollee pursuant to the disclosure provisions of Section 1363.

(j) No health care service plan shall require registration under the Controlled Substances Act of 1970 (21 U.S.C. Sec. 801 et seq.) as a condition for participation by an optometrist certified to use therapeutic pharmaceutical agents pursuant to Section 3041.3 of the Business and Professions Code.

1 Nothing in this section shall be construed to permit the director
2 to establish the rates charged subscribers and enrollees for
3 contractual health care services.

4 The director's enforcement of Article 3.1 (commencing with
5 Section 1357) shall not be deemed to establish the rates charged
6 subscribers and enrollees for contractual health care services.

7 (k) Notwithstanding the provisions of Section 4735 of the
8 Probate Code, no plan shall deny coverage for treatment on the
9 ~~basis that it is futile or inappropriate. Nothing in this subdivision~~
10 *basis that it is futile if the enrollee or his or her legal guardian*
11 *desires that treatment.*

12 (l) *Nothing in subdivision (k) shall be construed to require*
13 *treatment that provides no medical benefit for the specific*
14 *condition for which the enrollee is being treated.*

15 SEC. 5. Section 10119.1 is added to the Insurance Code, to
16 read:

17 10119.1. (a) Notwithstanding the provisions of Section 4735
18 of the Probate Code, no policy of ~~disability health~~ insurance ~~that~~
19 ~~covers hospital, medical, or surgical expenses~~ shall deny coverage
20 for treatment on the basis that it is futile ~~or inappropriate~~ *if the*
21 *insured or his or her legal guardian desires that treatment.*

22 (b) Nothing in this section shall be construed to require
23 treatment that provides no medical benefit *for the specific*
24 *condition for which the insured is being treated.*

25 SEC. 6. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 the only costs that may be incurred by a local agency or school
28 district will be incurred because this act creates a new crime or
29 infraction, eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section 17556 of
31 the Government Code, or changes the definition of a crime within
32 the meaning of Section 6 of Article XIII B of the California
33 Constitution.